

This 24th day of April 2020
 ELISABETH A. FRENCH BW
 PRESIDING CIRCUIT JUDGE

STATE OF ALABAMA)
 COUNTY OF JEFFERSON)

TENTH JUDICIAL CIRCUIT OF ALABAMA
ADMINISTRATIVE ORDER NO. AO-2020-031

Virtual Court Proceedings

WHEREAS, on March 13, 2020, and amended on April 2, 2020, in Administrative Order No. 5, the Alabama Supreme Court issued Administrative Orders declaring a state of emergency for the entire judicial branch for the State of Alabama due to the COVID- 19 pandemic.

WHEREAS, the following rules are deemed necessary for the local implementation of virtual Court hearings during the pandemic and at any time thereafter at the Judge's discretion;

WHEREAS, the Court also finds that there is a compelling reason to implement this special access rule during the COVID-19 pandemic and finds that any burden placed on an individual by these procedures is substantially outweighed by the need to protect the public from further spread of COVID-19.

It is therefore ORDERED that during any period of time that the Supreme Court of Alabama shall suspend or partially suspend in-court proceedings and allow for Court hearings to be conducted by audio conference or video conference, the following rules and guidelines are hereby adopted and shall be followed by all parties appearing for any hearing or trial that is presently pending or hereinafter filed in Jefferson County in which sworn testimony is taken by the use of video conferencing or audio conferencing equipment.

1. Definitions:

The term "*video conference*" means the use of any interactive technology that sends and receives video, audio, and data so that two or more individuals can communicate with each other contemporaneously from different locations using cameras, microphones, speakers, cell phones or telephones, and computer monitors or screens that allow the individuals participating to view and hear each other.

The term "*audio conference*" means the use of any interactive audio technology, including a cell phone or telephone, that permits two or more individuals to contemporaneously speak with each other from different locations.

2. Each Judge shall have the discretion to require that any non-jury Court proceeding be conducted by video conference or audio conference. Except as otherwise provided by law or separate Supreme Court of Alabama Order, every Court proceeding conducted by the use of video conference or audio conference shall conform to the requirements of the Administrative Orders issued by the Supreme Court of Alabama and Chief Justice Tom Parker. These proceedings shall hereinafter be referred to as “virtual court hearings.”

3. At the Judge’s discretion, virtual court hearings may be scheduled and held in all non-jury proceedings, including, but not limited to, pendente lite hearings in domestic relations cases; domestic relations trials; contempt hearings; modification hearings; civil motion hearings; protection-from-abuse hearings; child-support hearings; parentage hearings; hearings for injunctive relief; civil non-jury trials; small claims proceedings; traffic dockets; all juvenile case proceedings, including, but not limited to, detention and shelter-care hearings, adjudicatory hearings, disposition hearings, reviews, permanency hearings, aftercare hearings, and termination-of-parental rights hearings; criminal proceedings, including, but not limited to, initial appearance hearings, arraignments, preliminary hearings, hearings on motions to reduce bond, hearings on motions to revoke bond, probation hearings, probation revocation hearings, youthful offender hearings, hearings on habeas corpus petitions, and hearings on petitions for post-conviction relief. The above list is not intended to be an exclusive or exhaustive list, but is offered merely as examples of the kinds of proceedings that may be conducted by use of a video conference or an audio conference.

4. All virtual court hearings with video capabilities must be conducted with Zoom software unless the Judge presiding over the hearing authorizes the use of a different software or technology that has been deemed trustworthy and reliable for Court use.

5. All counsel of record and all self-represented litigants shall be timely notified of the date and time of a scheduled virtual court hearing via Alacourt.com, e-mail, regular mail, or as otherwise allowed by the Alabama Rules of Court or by statute.

6. Recordings Prohibited. No electronic device or other means may be used by a party, attorney, witness, or any other person to capture images, videos, or sound recordings of any portion of a virtual court hearing without the express written consent of the Judge presiding over the judicial proceeding. Any person violating this rule may be held in contempt of court.

7. Sanctions. Violation of these prohibitions may result in sanctions, including removal of court-issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.

8. Subpoenas. A subpoena issued for the appearance of a witness at a virtual court hearing shall clearly state the address where the witness will need to appear to offer sworn testimony. Typically, this location will be the law office address of the attorney who requested the subpoena, but may be any location designated in the subpoena and permitted by this Order. The subpoena also shall inform the witness that he or she has the option of testifying from his or her home or other location of his or her choice, provided the witness has: (i) a computer, smartphone, tablet, or other device with video conference capabilities (camera, microphone and monitor), (ii) free Zoom video conference software or such other video conference software permitted by the trial Judge or Referee, (iii) an e-mail address and (iv) internet service with sufficient broadband for a video conference. If the virtual court hearing has been designated by the trial Judge or Referee as an audio virtual court hearing only, video capability is not required. The subpoena also shall instruct the witness that if he or she intends to testify from his or her home, that the witness must immediately contact the law office or person requesting his or her appearance to provide an e-mail address and telephone number where the witness can be reached during the scheduled virtual court hearing. It is the responsibility of the person requesting the subpoena to confirm each of his or her witnesses' ability to participate in a video conference or audio conference. If the witness is not able to participate in the virtual court hearing from his or her home or other selected location, the person issuing the subpoena shall decide whether the witness is material and, if so, it is the responsibility of the person issuing the subpoena to make arrangements for the witness to appear at a location having sufficient video conference or audio conference capabilities.

At least seven (7) days prior to the scheduled virtual court hearing, each party shall file with the Clerk a list of witnesses who will be called to testify. The list shall include: (i) the name of each witness, (ii) telephone number where the witness can be reached at the time of the virtual court hearing and (iii) the e-mail address of each witness expected to be called as a witness. If the identity of a witness is unknown to a party seven (7) days prior to the virtual court hearing, the identity, telephone number and e-mail address of the witness shall be provided to the Clerk as soon as it is determined that the witness may testify.

If the witness sequestration rule is invoked at a virtual court hearing, all witnesses will be assigned to a breakout session or placed on hold in the Zoom application where the witness is unable to hear the testimony of other witnesses, except as may be otherwise agreed by the parties on the record. If necessary, witnesses may be telephoned and prompted to log into the virtual hearing when it is time for the witness give his or her testimony. The Judge and the parties may be assigned to a breakout session for side-bar discussions.

Notwithstanding the foregoing, a witness need not appear at a location other than his or her residence if, at the time of the scheduled virtual court hearing, the witness is: (1) running a fever, (2) is in quarantine due to possible exposure to someone testing positive for COVID-19, (3) is over the age of 60 years or has an underlying medical condition that would create a greater risk to the witness if exposed to COVID-19, (4) if sick, or (5) pursuant to the statewide Order of the State Health Officer Suspending Public Gatherings Due to Risk of Infection by COVID-19 Amended April 3, 2020. Further, each subpoena issued for a virtual court hearing shall contain a prominently displayed notice that “all witnesses are required to have in their possession a government-issued photo ID to establish his or her identity at the virtual court hearing.” Before a witness is administered his or her oath and allowed to testify, the government-issued photo ID shall be shown to the court reporter who is transcribing the proceeding or to the Judge presiding over the proceeding if no court reporter is present.

9. Motions to Withdraw. In the event an attorney wishes to withdraw from a case, the Motion to Withdraw shall contain a certification that the Attorney has notified his or her client of the requested withdrawal, that the client has been informed of all pending hearings or trial dates, including virtual court hearing dates, and that the Attorney has notified the client that it is the client’s responsibility to immediately contact the Clerk to provide a current regular mailing address, telephone number, and e-mail address for future Court hearings, including virtual court hearings. If counsel is unable to communicate with his or her client, the Attorney shall provide a brief account of attempts made to notify the client of his or her intent to withdraw and of the client's responsibility to provide the Clerk's office with a current mailing address, telephone number, and e-mail address.

10. All persons appearing for a virtual court hearing at an office or other location shall adhere to the protocols adopted by the Centers for Disease Control to limit the transmission of

COVID-19, including maintaining a social distance of at least six (6) feet, to the fullest extent practicable.

11. Communication Between Counsel and Self-Represented Parties Prior To Filing Request for Virtual Court Hearing. All parties shall confer with opposing counsel or self-represented litigant prior to the scheduled virtual hearing to determine whether all parties consent to disposition of a motion or acceptance of a guilty plea via the Zoom audio/video application.

12. Settings. If a party wishes to request that a case be set for a virtual court hearing that has not already been set, counsel for the party making the request shall first confer with counsel of record for all other parties involved (or if a party is a self-represented party, then directly with the self-represented party) and determine whether all parties consent to holding a virtual court hearing pursuant to the requirements mandated in the Administrative Orders referenced above and this local Order. Each party shall thereafter file a notice with the Clerk, giving consent to the virtual court hearing or objecting to the hearing. In the event an objection is made to the virtual court hearing, the party making the objection shall state specifically each and every basis for the objection, and the Judge presiding over the case shall make a determination whether the virtual court hearing should be conducted.

The provisions of this Order shall not apply to those types of hearings exempted from the in-person suspension orders of the Supreme Court of Alabama referenced above. Those in-person hearings will be held at the courthouse or such other facility designated in the Order setting the matter for hearing unless: (i) all parties to the proceeding waive their right to an in-person Court proceeding and agree to a virtual court hearing, or (ii) the Judge presiding over the case makes a determination that a virtual court hearing is necessary to safeguard the public health and to the protect the health of those individuals involved in the Court proceeding.

With respect to all civil cases, including small claims cases and domestic relations cases, a party filing a request to schedule a virtual court hearing shall first certify to the Court in writing that he or she has made a good faith attempt to communicate with the opposing attorney and each self-represented party in an effort to resolve the matters in dispute prior to filing a request to set for hearing and shall briefly describe the efforts made to communicate with opposing counsel or any self-represented party. This requirement shall not apply to protection-from-abuse proceedings.

13. Pre-hearing Conference. The parties shall confer prior to the scheduled virtual hearing

to discuss any agreements, the introduction of exhibits, identify legally permissible stipulations and challenges to admissibility.

14. Pre-trial Conference. Counsel of record and any self-represented party may also request that a pre-trial virtual court hearing or telephone conference call be held with only counsel of record and any self-represented party to discuss the scheduling of discovery, to narrow the issues that may be in dispute, or to discuss other matters that may facilitate a settlement of the case or matter in dispute.

15. Procedure for Virtual Court Hearings. The Judge assigned a case may schedule a virtual court hearing and notice of the date and time for the proceeding will be provided to all parties by Alacourt.com, by regular mail, by e-mail, or as otherwise allowed by the Alabama Rules of Court, statute or Administrative Order of the Alabama Supreme Court. Counsel shall contact his or her client and arrange for the client and all the client's witnesses to appear at the attorney's office or other designated location at least thirty (30) minutes before the proceeding is scheduled to commence. A self-represented party shall do likewise with respect to all witnesses he or she expects to call at the virtual court hearing. Counsel for the parties and any self-represented party shall also ensure that all necessary equipment and software are in proper working order prior to the time of the scheduled hearing and that bandwidth is adequate for video conference. Self-represented litigants shall contact the Clerk's office at least seven (7) days prior to the scheduled virtual proceeding, except when the times have been shortened due to the necessity of scheduling an emergency hearing, and notify the Clerk in writing whether he or she has the ability, equipment, software, and bandwidth required to participate in the virtual court hearing and, if so, shall confirm that the Clerk has the e-mail address he or she will use to connect with Zoom or other approved software and a telephone number that the party can be reached during the virtual court hearing, if it should be necessary. If a self-represented litigant notifies the Clerk in writing that he or she does not have the knowledge, equipment, software, or bandwidth necessary to proceed with the virtual court hearing, the Judge presiding over the case may hold a telephone conference with all self-represented parties and counsel of record to determine the best way to proceed. The Judge and counsel of record and any self-represented party shall explore other possible options for conducting a virtual court hearing, including the use of a local access computer at available facilities that may be equipped with the appropriate technology for virtual court hearings. Failure to attend the conference or cooperate in the virtual court hearing or telephone conference may result in contempt

proceedings being initiated against the party, attorney, or other person ordered to attend or participate.

It is the responsibility of the parties, whether represented by counsel or representing themselves, to have all of their material witnesses present at a virtual court hearing. Each witness who appears must have a government-issued photo ID with them at the time of the proceeding or the witness will not be allowed to testify, except by consent of all parties or with another acceptable proof of identification. Shortly before the virtual court hearing is scheduled to begin, counsel of record and any self-represented party shall contact each of their respective witnesses at the telephone numbers provided by them and instructed to be on standby to give their testimony.

At the time the virtual court proceeding is scheduled to begin, the Judge or a member of the Judge's staff may connect with all parties and counsel of record using Zoom software or such other software that has been approved. Once it has been determined by the Judge that all necessary individuals are present and able to see and hear what is transpiring at the proceeding, the hearing shall progress as though the parties were physically present, subject to the rules specifically adopted for virtual court hearings.

16. Virtual Court Hearings with Court Reporter. If a court reporter will be recording the virtual court hearing by videoconferencing, before testimony or other evidence is taken, the Judge shall obtain the verbal consent of all the parties and attorneys on the record to have the court reporter record the proceedings to create a record, even though the court reporter may not be physically present in a courtroom. Once all parties and counsel of record consent, the court reporter shall be present throughout the video conference and must be able to see and communicate with every witness who appears remotely using Zoom software or such other video conference software that has been approved by the Judge. Prior to a witness testifying, the court reporter shall ascertain the identity of the witness and administer the oath to the witness remotely. At all times during the witness's testimony, the court reporter shall be able to see, hear, and communicate with the witness who is testifying. The court reporter shall record the video conference court hearing just as though the hearing were being conducted with all parties and counsel appearing in person. If the court reporter is requested to transcribe the record, the court reporter's transcript shall reflect in the transcript that the transcript was made with all individuals appearing remotely with video conferencing, except for any individuals who may have been physically present with the court reporter during the virtual court hearing.

If the court reporter is unable to hear a witness's testimony due to audio feedback or other technical difficulties, he or she shall immediately notify the Judge.

When the testimony of a witness is needed, the Judge or a member of the Judge's staff will send an invitation to the witness who is being called to testify by a party or remove the party from Zoom hold. Counsel of record or a self-represented party may contact his or her witness by telephone if the attempt to connect the witness to the video conference is unsuccessful, may attempt to determine the cause of the problem and may assist with possible technical solutions. At the conclusion of a witness's testimony, the Court may inquire whether the witness may be excused or released from any subpoena. If a party indicates that further testimony from the witness may be required, the witness will be notified by the Court to remain on call at his or her present location pending further instructions from the party who has indicated further that testimony may be needed from the witness.

17. Virtual Discovery. Parties engaging in discovery may utilize these procedures as guidelines for conducting virtual depositions.

18. Virtual Court Hearings in Which No Court Reporter is Present. In any virtual court hearing in which a court reporter is not present to record the proceeding, the hearing may be recorded in any manner permitted by statute, rule, or Administrative Order of the Supreme Court of Alabama. Before the virtual court hearing begins, the Judge may explain to all counsel of record and to the parties the process that will be used to make a record of the hearing and obtain the verbal consent of all parties to the recording method being employed. Further, all witnesses appearing for the virtual court hearing may be administered the oath by the Judge presiding over the hearing or as otherwise permitted by statute, rule, or Administrative Order of the Supreme Court of Alabama and the consent of all parties to this procedure shall also be obtained prior to taking evidence in the virtual court hearing.

19. Exhibits. No later than fourteen (14) days before a scheduled virtual court hearing (emergency hearings excepted), counsel for the parties and any self-represented litigants shall confer with one another regarding the use of exhibits at the virtual court hearing. Consistent with the duty of client representation, counsel and any self-represented litigant shall discuss potential exhibits that may be introduced at the virtual court hearing and stipulate as to the authenticity and admissibility of any proposed exhibit, to the extent they are willing to do so. No authentication or

other foundation will need to be established at the virtual court hearing for any exhibit the parties have agreed may be allowed into evidence by their stipulation.

At least seven (7) days prior to the scheduled virtual hearing, the parties shall address to the assigned court reporter and deliver by mail sealed copies of the exhibits to be presented at the scheduled virtual hearing. The envelope or a letter contained therein shall clearly identify the case associated with the delivered exhibits.

20. Exhibits Capable of Being Displayed in an Electronic Format. Each party shall cause an exact copy to be made of all photographs, videos, and documents intended to be shown to a witness or offered into evidence at a virtual court hearing. The original and each copy of the original shall be pre-marked with the same number, with the first exhibit being denominated as exhibit number one (1) and each original and copy thereafter numbered sequentially. Each marked exhibit shall also clearly identify the party who will be offering the exhibit. All originals shall be retained by the proffering party and copies of the exhibits (hereinafter referred to as "court copies"), shall be placed in either a sealed envelope or sealed box and mailed or delivered to the court reporter who will transcribe the virtual court hearing. The court reporter shall keep the court copies in a secure location and shall not open them until the beginning of the virtual court hearing. Once the virtual court hearing has begun, the court reporter shall unseal the court copies for the participants to view during the course of the hearing. If a court reporter will not be present at the virtual court hearing to record the proceeding, all Court copies shall be delivered to the Judge presiding over the hearing, who will open the Court copies and keep them secure.

The parties shall notify the Court of the intent to publish exhibits during the virtual hearing. Exhibits may be published by request permission to share a party's screen or by emailing a courtesy copy to the Court's judicial assistant to be shared on the Court's screen.

21. Physical Exhibits Not Capable of Being Reduced to Electronically-Stored Format and Exhibits Used in Rebuttal. Notwithstanding the foregoing, any exhibit that is not capable of being reduced to an electronically-stored format need not be delivered to the court reporter or Judge prior to the commencement of the virtual court hearing. Examples of such exhibits include physical objects such as weapons, equipment, clothing, bullets, etc. These exhibits may, if properly authenticated and otherwise admissible, be allowed into evidence at the virtual court hearing as permitted by the Alabama Rules of Evidence. The Court may also allow exhibits offered in rebuttal to be introduced at the virtual court hearing even though the exhibits have not been

provided to the Court in advance of the hearing. Any physical or rebuttal exhibit offered by a party shall first be appropriately marked and shown to opposing counsel and to any self-represented party before it is offered into evidence. At the conclusion of the virtual hearing each day, each party shall place all of their exhibits that have been admitted into evidence or disallowed by the Court that day into a large manila envelope(s) or box and the envelope(s) or box sealed in view of the Judge, court reporter if present, and all other parties. Each exhibit envelope or box shall be accompanied by a certification from the offering party that the exhibits have not been altered or changed in any way once placed in the envelope or box and sealed in the presence of the Court and other parties. The admitted and excluded exhibits shall be delivered with the seal unbroken to the court reporter recording the virtual court hearing as soon as possible after the hearing recesses each day. If no court reporter is present to record the proceeding, then the exhibits shall be delivered with seal unbroken to the Judge presiding over the virtual court hearing at the end of each day's proceeding.

22. Procedure for Presenting Electronically-Stored Exhibits at Virtual Court Hearing.

Parties wishing to offer a document, photo, or video as an exhibit at the virtual court hearing shall cause a true and exact copy of the document, photo, or video to be created and stored electronically on the computer or other device that will be used at the virtual court hearing. Before an authenticating witness is brought into a virtual court hearing or while the witness has been placed on Zoom hold, the party seeking the admission of the exhibit into evidence shall be placed on hold or in a breakout session while the party seeking the admission of the exhibit shows the document by the shared screen feature to opposing counsel or self-represented litigant. Once the exhibit has been shown to opposing counsel or self-represented litigant, the authenticating witness may be returned to the virtual hearing.

23. Retention of Exhibits at Conclusion of the Virtual Court Hearing. All exhibits admitted into evidence during the virtual court hearing and all exhibits that have been offered into evidence by a party and not admitted into evidence shall be retained by the court reporter in a secure location for the same period of time prescribed for in-court proceedings. If no court reporter is present to record the proceeding, the Judge presiding over the virtual court hearing will retain the exhibits as provided by law.

24. Attire. Appropriate courtroom attire, whether in a traditional courtroom or a virtual one, helps preserve the dignity of the occasion and promotes public trust and confidence in the

judicial proceeding. The Judge presiding over a virtual court hearing will determine the specific dress code for his or her Court.

25. Technical Problems. If the Judge or Referee presiding over a virtual court proceeding determines at any time that the audio or video connection is so poor as to interfere with the fair administration of justice, the hearing shall be postponed until such time as a better connection can be obtained or the matter can be set for an in-person court proceeding. It shall be the responsibility of a party or counsel for a party to immediately inform the Court if there has been a disruption at their end of the communication that substantially interferes with his or her ability to see or hear what is occurring during the video conference. An objection to the quality of an audio conference or a video conference must be made to the Court on the record before the virtual hearings has concluded. Any objection to the quality of the audio conference or video conference made thereafter will be deemed untimely.

26. Juvenile and Youthful Offender Proceedings. Virtual court hearings in juvenile and youthful offender cases shall proceed in a manner consistent with the procedures described in the above paragraphs, subject to the additional safeguards provided herein. The Judge or Referee presiding over the case shall initiate the virtual court hearing using additional privacy measures provided by Zoom to make the virtual court hearing private, including the use of PIN numbers that are only available to necessary participants. However, despite all reasonable efforts to ensure that privacy and confidentiality are preserved with encryption, software may not be deemed perfectly secure from a breach and, if a breach were to occur, a computer hacker could eavesdrop on a video conference or otherwise gain access to a virtual court hearing. Therefore, as an additional precaution, it is Ordered that in all juvenile and youthful offender proceedings conducted with video conference, only the initials of the youthful offender or juvenile shall be used and no one at the hearing shall disclose any information that could identify the juvenile or youthful offender, except to the extent that may be reasonably necessary given the nature of the case. Further, prior to the commencement of each juvenile or youthful offender virtual court hearing, the Court may inform all lawyers, parties, guardians ad litem, witnesses and other participants at the hearing of this rule.

Further, with respect to juvenile proceedings in which a child is not physically present with his or her attorney at the time of the virtual court hearing, the child shall be afforded an opportunity at any time during the virtual court hearing to communicate privately with his or her attorney either

in person or by use of a phone or video software that ensures confidentiality of the communication and the child shall be informed by the Court of this right before the virtual court hearing commences. Virtual court 72-hour detention hearings, or pleas taken at these hearings in juvenile delinquency cases, must meet the legal requirements set out by Order of the Supreme Court of Alabama dated June 22, 2006 (and extended by Orders dated June 3, 2008, April 19, 2011, September 17, 2014, and April 17, 2017), the Court's Guidelines for Videoconferencing Detention Hearings (Temporary), and the Alabama Judicial System Policies, Procedures and Guidelines Governing Videoconferencing Appearances in Juvenile Courts which was approved by memorandum dated September 4, 2009.

27. Additional Criminal Proceedings Generally. Virtual court hearings in criminal cases shall proceed in a manner consistent with the procedures described in the above paragraphs and consistent with this Court's previous Interim Administrative Orders numbers 2020-25, 2020-26, 2020-29 and 2020-30, subject to the additional safeguards provided herein when a Defendant is not physically present in the same room with his or her attorney during a virtual court hearing.

28. Weekly announcements for court hearings may be posted outside of the criminal court houses in the Bessemer and Birmingham divisions for public information. Said announcements will contain information for accessing the virtual hearing schedule for each criminal Judge. Each Judge shall enter an order in Alacourt, providing access information for upcoming virtual hearing schedules. Any person may observe a virtual hearing related to matters that are permitted for public viewing under Alabama law. Public observers shall be given permission to enter any virtual hearings held in this circuit as a spectator only, unless the Defendant or the State asks that the hearing be closed and "advances an overriding interest that is likely to be prejudiced" if the hearing is made open to the public. *Press-Enterprise Co. v. Superior Court of California for Riverside County*, 478 U.S. 1 at 7, 106 S. Ct. 2735 at 2739, 92 L. Ed. 21 (1986). *Ex parte Birmingham News Co.*, 624 So. 2d 1117, 1124-25 (Ala. Crim. App. 1993). Public observers will not be permitted to speak or participate in the virtual hearing.

An individual may request access to a criminal virtual court hearing by filing a written request with the Clerk. The individual making the request shall provide the Clerk with the Defendant's name, the case number, if known, as well as the requester's e-mail address. Notice of the request shall be provided to the Prosecutor and the Defendant and, if no objection is filed within fourteen (14) days of the notice, the requester will receive an invitation to attend any virtual court

hearing held in the case that involves matters that have traditionally been open to the public. If an objection is made by a party within the time provided, the Court shall schedule a hearing to determine whether the request for access should be denied and the hearing be closed to the public.

29. Every criminal Defendant is required to have in their possession a government-issued photo ID identification purposes at the virtual hearing. Before a Defendant is administered an oath and allowed to testify or enter a plea of guilty the government-issued photo ID shall be presented to the Judge during the virtual hearing. The Judge shall note on the record that the identification was presented, give details from the presented ID and verify the identity of the Defendant.

30. A Defendant in any criminal case may waive his or her right to be present at a virtual court hearing. However, if a Defendant is incarcerated in the Jefferson County Jail and does not waive his or her right to be present, the Defendant shall be brought into the jail's on-site video conferencing room before the hearing begins and shall be connected to the virtual court hearing so that he or she is capable of hearing and seeing everything that transpires during the virtual court proceeding. Further, the Defendant shall be afforded an opportunity at any time during the virtual court hearing to communicate privately with his or her attorney either in person or by use of a phone or video software that ensures confidentiality of the communication and the Defendant shall be informed by the Court of this right before the virtual court hearing commences. All relevant parties may waive their right to an in-person court proceeding and agree to virtual hearings. The Judge may make a determination that a virtual hearing is necessary to safeguard the public health and to protect the health of those individuals included in the court proceeding.

31. The Defendant shall be required to provide verifiable consent or objection by written letter, email or text message stating unequivocally the expressed intent to waive an in-person hearing and proceed through the Zoom application. The Victim or Victim representative shall be required to provide verifiable consent or objection as provided in the Victim's Rights Act, by written letter, email or text message stating unequivocally the expressed intent to waive an in-person hearing and proceed through the Zoom application. Objections shall not apply to the hearings exempted from the in-person suspension orders of the Supreme Court of Alabama referenced above. Hearings exempted from the in-person hearing suspension shall be held at the courthouse or such other facility designated in the order setting the matter for said hearing at a time and date as determined by the assigned Judge.


32. Procedure in Criminal Cases for Guilty Plea Hearings. If the State and the Defendant reach a plea agreement, the agreement shall be reduced to writing and signed by all parties and counsel of record. Defense counsel shall file the Agreement on Alacourt, along with all other properly executed forms required for the Court to accept the Defendant's guilty plea. Once it has been determined that all necessary paperwork has been submitted, the Judge will schedule a virtual court hearing date and time and notice provided to all parties. Electronic signatures are permitted when available. Platforms such as *DocuSign* or *Adobe Fill and Sign* are acceptable applications to utilize when executing signatures for plea agreements.

If a plea agreement requires the Defendant to serve a jail or prison sentence, the Defendant shall report to the county jail immediately following the virtual hearing. The Sherriff shall be notified in advance. If the plea agreement calls for probation or an application for probation has been made, the Defendant shall immediately report to the probation office by telephone unless otherwise instructed by a probation officer.

33. Incarcerated Defendants. The Jefferson County Jail shall ensure appearance of incarcerated inmates for virtual hearings and attorney consultations as scheduled. Defense counsel may appear with the Defendant at the jail or from another location. A Defendant may request at any time during the hearing a private conversation with defense counsel in a break out session. Discussions held in the break out session shall not be recorded or heard by other participants in the virtual hearing room. A Defendant entering a guilty plea shall be afforded an opportunity at any time during the plea to communicate privately with his or her attorney either in person, in an assigned break out session, by use of a phone or other video software that ensures confidentiality of the communication.

These provisions may be modified at each Judge's discretion.

DONE AND ORDERED on this the 24th day of April, 2020.


Elisabeth A. French
PRESIDING JUDGE
10TH JUDICIAL CIRCUIT

Via Email Distribution:

Tom Parker, Chief Justice

Rich Hobson, Administrative Director of Courts

Julia Jordan Weller, Clerk, Supreme Court of Alabama

All Circuit Judges, Tenth Judicial Circuit

All District Judges, Tenth Judicial Circuit

Jacqueline Anderson Smith, Circuit Clerk, Tenth Judicial Circuit

Karen Dunn Burks, Deputy Circuit Clerk, Bessemer Division

Bonita Conley, Court Administrator